

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

---

---

KATHY L. ALLAIRE,

Plaintiff,

v.

ORDER  
05-CV-892A

MICHAEL J. ASTURE,  
Commissioner of Social Security,

Defendant.

---

---

Plaintiff brought this action pursuant to 42 U.S.C. § 405(g) seeking review of a final determination of the Commissioner of Social Security that she is not disabled. This case was referred to Magistrate Judge Hugh B. Scott pursuant to 28 U.S.C. § 636(b)(1).

Both parties moved for judgment on the pleadings. On January 22, 2007, Magistrate Judge Scott issued a report and recommendation recommending that the defendant's motion for judgment on the pleadings be denied and that plaintiff's motion for judgment on the pleadings be granted that the matter be remanded to the Commissioner for further administrative proceedings.

The Commissioner filed objections to the report and recommendation and the plaintiff filed a response in opposition. Pursuant to 28 U.S.C. § 636(b)(1), this Court must make a de novo determination of those

portions of the Report and Recommendation and Order to which objections have been made. Upon de novo review and after hearing arguments of counsel, the Court hereby denies the Commissioner's objections and adopts Magistrate Judge Scott's report and recommendation.

Accordingly, for the reasons stated by Magistrate Judge Scott, the Commissioner's motion for judgment on the pleadings is denied, and the plaintiff's motion is granted, and the matter is remanded to the Commissioner of Social Security for further proceedings. The Clerk of the Court is directed to enter judgment in favor of the defendants and to take all steps necessary to close the case.

SO ORDERED.

s/ Richard J. Arcara  
HONORABLE RICHARD J. ARCARA  
CHIEF JUDGE  
UNITED STATES DISTRICT COURT

DATED: March 30 , 2007